



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,595	12/21/2001	Assaf Govari	BIO-137	6087

27777 7590 01/10/2006

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER

ROY, BAISAKHI

ART UNIT	PAPER NUMBER
----------	--------------

3737

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/029,595	GOVARI, ASSAF	
	Examiner	Art Unit	
	Baisakhi Roy	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6, 8-11, 13, 14, 16-23, 25, 27, 28, 30, 32-38 and 40-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 8-11, 13, 14, 16-23, 25, 27, 28, 30, 32-38, and 40-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/7/05 have been fully considered but they are not persuasive. The endoscopic smart probe of Gadzdinski is manipulated in various orientations and positions ([0039] [0145] [0146] [0150] [0153] [0157] [0170] [0258]) and therefore would necessarily involve determining the position and orientation coordinates of the object in the body. Therefore, previous rejections still stands.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-6, 8, 12, 16, 25, 27, 28, 30, 32, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Gazdzinski (2001/0051766). Gazdzinski discloses an apparatus and method for determining the position of an object within a body comprising an acoustic wave generator ([0068]), a wireless acoustic tag and a transducer fixed to the object with said tag comprising a shell defining a cavity therein and a medium contained within the shell where in response to incidence of a first acoustic wave at a first frequency, the tag emits a second acoustic wave at a second frequency different from the first frequency ([0223-0227]), inserting the object into the body ([0145]), one of more

Art Unit: 3737

detectors adapted to detect reflected acoustic waves ([0416]), and a signal processor for determining the angular orientation and position of the object within the body and therefore capable of determining the coordinates of the object in the body ([0067] [0255] [0258]). The reference also teaches said object to have an axis ([0157]).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13, 14, 20-23, 29, 36-38, and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Schneider (6073043).

Regarding claims 29 and 36, Gazdzinski teaches determining the position of the object in the body but does not explicitly teach a method for determining the position coordinates of the object. In the same field of endeavor, Schneider discloses a method for determining the position of an object within a body by determining the coordinates of the object in the body (col. 3 lines 44-47, col. 5 lines 30-35). It would have been obvious to one of ordinary skill in the art to use the teaching by Schneider to modify the teaching by Gazdzinski for the purpose of determining the position and orientation of a remote device.

Regarding claims 13, 14, 20-23, 37, and 38, Gazdzinski does not explicitly teach a magnetorestrictive element. In the same field of endeavor, Schneider discloses

Art Unit: 3737

magnetorestrictive elements (col. 5 lines 38-41). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Schneider to modify the teaching by Gazdzinski for the purpose of providing sensing elements.

4. Claims 9, 10, 11, 17-19, 33-35, and 41-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Schneider et al. (5689576). Gazdzinski teaches said transducer to comprise a piezoelectric transducer but does not explicitly teach a crystal having multiple opposing faces. In the same field of endeavor, Schneider et al. disclose a system and method for determining the position and orientation of an object with a transducer comprising a piezoelectric crystal having multiple opposing faces with circuit elements (col. 9 lines 12-45). It would have therefore been obvious to one of ordinary skill in the art to use the teaching by Schneider et al. to modify the teaching by Gazdzinski for the purpose of causing the crystal to emit acoustic waves at different resonant frequencies with respective amplitudes that vary responsive to the orientation angle of the transducer.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3737

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

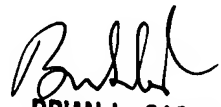
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baisakhi Roy whose telephone number is 571-272-7139. The examiner can normally be reached on M-F (7:30 a.m. - 4p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system: Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

B R.

BR


BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700